



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 29547063

Date: JAN. 29, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a camera operator specializing in combat zone coverage, seeks classification as an individual of extraordinary ability in the arts. Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner has a level of expertise indicating that he is one of the small percentage who have risen to the very top of his field of endeavor. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

## **I. LAW**

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide documentation that meets at least three of the ten

categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual’s occupation.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner seeks to work as a camera operator in the United States. The Director concluded that the Petitioner submitted sufficient documentation to meet four of the ten initial evidentiary criteria<sup>1</sup> and proceeded to a final merits analysis, determining that the overall record did not establish the Petitioner’s sustained record of national acclaim or that he is one of the small percentage that has risen to the very top of his field of endeavor.

On appeal, the Petitioner submits a brief, incorporation documents, and a letter regarding a job offer, and documentation he previously submitted with the underlying petition. Upon review, the Petitioner has not overcome the Director’s denial, for the reasons below.

### A. Initial Evidentiary Criteria

As a preliminary matter, we will withdraw the Director’s conclusion that the Petitioner submitted evidence that meets 8 C.F.R. § 204.5(h)(3)(i), receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The Petitioner claims to meet this criterion based on various military awards from his time as a combat camera operator and a special prize he won at the 2007 [redacted] Film Festival in Georgia.

First, the record indicates that nearly all of the Petitioner’s military awards, such as the [redacted] medal from the North Atlantic Treaty Organization (NATO) and the [redacted] from the Georgian Ministry of Defense, were awarded to military and other personnel for participation in various operations and campaigns. There is no indication that these are awards in the Petitioner’s field of combat camera operation, or that they recognize excellence in that field. As such, they do not qualify the Petitioner for this criterion.

The Petitioner’s Certificate of Commendation from the U.S. Marine Corps states that it was awarded to him for “outstanding achievements in the performance of his duties as a combat cameraman.”

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<sup>1</sup> The Petitioner does not claim, and the evidence does not indicate, that he meets the initial evidentiary requirement through a major, internationally recognized award (“one-time achievement”). 8 C.F.R. § 204.5(h)(3).

However, while this award was granted for excellence in the Petitioner's field, there is no indication in the record that it is nationally or internationally recognized. The Petitioner provided documentation regarding the history and prestige of the Marine Corps, but did not provide evidence showing that their Certificates of Commendation are recognized beyond the rewarding entity. This award therefore also does not qualify the Petitioner for this criterion.

The [redacted] award was granted to the Petitioner for a documentary about combat camera operators which he co-directed. The record includes a copy of the award as well as promotional documents regarding the [redacted], but these documents do not indicate what criteria were used to grant this award, the number of other awardees, or whether this award is nationally or internationally recognized beyond the rewarding entity. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), <https://www.uscis.gov/policy-manual>. Instead, the documentation provided only indicates that this was a "special diploma" granted by "the Georgia social company [redacted]". The record therefore does not establish that the special award from the [redacted] is awarded for excellence in the Petitioner's field or that it is nationally or internationally recognized, and so this award does not qualify under the criterion at 8 C.F.R. § 204.5(h)(3)(i).

For the above reasons, we will withdraw the Director's conclusion that the Petitioner received lesser nationally or internationally recognized prizes for excellence in his field of endeavor. However, the Petitioner's documentation still meets the required three initial evidentiary criteria: 8 C.F.R. § 204.5(h)(3)(iii), published material about the Petitioner in major media; (vii), display of the Petitioner's work in artistic exhibitions; and (viii), performing a leading or critical role for organizations or establishments with distinguished reputations. We will therefore proceed to a final merits determination under *Kazarian*, 596 F.3d 1115, 19-20.

## B. Final Merits Determination

In the decision notice, the Director conducted a final merits analysis of the totality of the record under *Kazarian*, and concluded that the Petitioner did not have a record of sustained national or international acclaim or show that he is one of a small percentage that has risen to the very top of his field, and so does not qualify for the extraordinary ability classification. *Id.* Upon review, the Petitioner has not overcome this denial ground.

The Petitioner claims that by fulfilling at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3), he has established that he has extraordinary ability. However, evaluating whether a petition meets the initial evidentiary requirements of a one-time achievement or at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) is only the first step of the two-step *Kazarian* analysis, not the totality of it. *Kazarian*, 596 F.3d 1115, 19-20. If a petitioner meets these initial requirements, we continue to the second step, which is reviewing the overall record to determine whether the petitioner meets the statutory and regulatory definition of extraordinary ability. *Id.* Here, while the Petitioner has met three criteria, he has done so with evidence that does not establish that he has a sustained record of national or international acclaim in his field.

The overall record indicates that the Petitioner is a skilled combat camera operator who has documented several international conflicts under highly dangerous circumstances. However, most of the evidence pertaining to his acclaim dates to the period from 2007 to 2009, when he co-directed and

released documentaries about combat camera operators working to record the Russo-Georgian war. The Petitioner met the criterion at 8 C.F.R. § 204.5(h)(3)(vii), display at artistic exhibitions, solely because one of his documentaries was shown at a film festival in 2007. Similarly, he met the published material ground 8 C.F.R. § 204.5(h)(3)(iii) on the basis of three television interviews, two from 2009 and one from 2023. Two of these three interviews, including the one from 2023, were conducted and aired by the television channels where the Petitioner was employed at the time, which diminishes their probative weight as evidence of his national acclaim. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(3) (“It is generally expected that one whose accomplishments have garnered sustained national or international acclaim would have received recognition for their accomplishments well beyond the circle of their personal and professional acquaintances.”). As noted above, the Petitioner’s awards were almost all granted for participation in various military campaigns, not for excellence in his field. The Petitioner has not established that showing a film in one festival and being interviewed three times in 14 years are achievements which reflect a “career of acclaimed work in the field,” as contemplated by Congress for the extraordinary ability classification. H.R. Rep. No. 101-723, 59 (Sep. 19, 1990).

We acknowledge the many expert support letters submitted by the Petitioner’s coworkers in Georgian television, which speak highly of his abilities and his work. However, such letters should be corroborated by documentary evidence in the record. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(3). Here, the evidence of the Petitioner’s acclaim beyond 2009 is sparse, and does not constitute the kind of “extensive documentation” contemplated by section 203(b)(1)(A) of the Act. Nor does this evidence establish that the Petitioner has sustained a national or international level of acclaim over time. *Id.*

On appeal, the Petitioner reiterates the prestige of his military awards and notes that only a small percentage of people serve in the military, contending that this means he is one of that small percentage who has risen to the very top of his field of endeavor. 8 C.F.R. § 204.5(h)(2). However, the full text of the regulation defines extraordinary ability as “*a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.*” *Id.* (emphasis added). The relevant question is not whether the Petitioner’s occupation is uncommon within the general population, but whether his level of expertise is uncommon within his occupation, as demonstrated by extensive documentation of his achievements in the field. *Id.*; section 203(b)(1)(A) of the Act. The Petitioner has not provided such documentation here.

The Petitioner seeks a highly restrictive visa classification: U.S. Citizenship and Immigration Services has long held that even athletes at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954-5 (Assoc. Comm’r 1994). The totality of the evidence provided does not establish that the Petitioner has sustained a national or international level of acclaim over time or that he is one of that small percentage at the very top of his field of endeavor. 8 C.F.R. § 204.5(h)(2)-(3). He is therefore ineligible for the extraordinary ability classification, and the petition will remain denied.

### C. Continuing to Work in Area of Expertise

Beyond the decision of the Director, we note that in order to qualify for the extraordinary ability criterion, the Petitioner must establish that he is coming to the United States in order to continue to

work in his claimed area of expertise, which is camera operation in conflict zones. In his initial personal statement, the Petitioner stated: “Upon the approval of my petition, I intend to continue working in New York, USA” as a camera operator.<sup>2</sup> However, the record indicates that the Petitioner has been employed by the Georgian television station [REDACTED] since 2020 as a “Cameraman Coordinator and Lecturer.” There is no indication that the Petitioner’s work with [REDACTED] has involved combat camera operation. Instead, the recommendation letters, military awards, and other documents in the record indicate he last worked as a camera operator in a conflict zone in 2017, six years prior to the petition’s filing.

On appeal, the Petitioner provides a certificate of incorporation for [REDACTED], a company he founded in [REDACTED] 2023, as well as a July 2023 letter from M-G- stating that he has invited the Petitioner to work as a director of photography for his company in New York. This letter states that “our company has plan[s] to produce [a] documentary web-series about successful Georgians working in the USA” and that they would also like the Petitioner “as an experienced cameraman to deliver masterclasses to the Georgian juveniles who live in the USA and who want[] to become a cameraman.” In light of the fact that the Petitioner has not worked as a combat camera operator in several years, this letter and the Petitioner’s statement do not suffice to establish that the Petitioner is coming to the United States to continue working in his area of exceptional ability as a combat camera operator.

### III. CONCLUSION

The Petitioner has not established his eligibility for the extraordinary ability classification. Furthermore, beyond the decision of the Director, we conclude that the Petitioner has not established that he is coming to the United States to continue working in his area of exceptional ability.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> The Petitioner is currently in the United States after being admitted under the nonimmigrant classification for representatives of information media. 8 C.F.R. § 214.2(i).